IN THE HIGH COURT OF JUDICATURE AT BOMABY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.501 OF 2003
IN
COMPANY APPLICATION NO.154 OF 2003
IN
COMPANY PETITION NO. 404 OF 1986
AND
IN THE MATTER OF MODELLA TEXTILE INDUSTRIES PVT.LTD (IN LIQUIDATION)

Shri.P.K.Dalvi .. Appellant
Hon.Secretary,
Modella Indl.Premises Co-op.Soc.Ltd.

Vs.

M/s.Modella Textile Industries
Pvt.Ltd. (In Liquidation) .. Respondent

Ms.Ashvini Hoshing with Mr.C.S.Joshi for the Appellant.
Mr.U.S.Patole, Assistant Official Liquidator

CORAM : DR.S.RADHAKRISHNAN & S.J.VAZIFDAR, JJ.

DATE : 26TH JULY,2006.

P.C.:

1. Heard the learned Counsel for the Appellant - Society and the Official Liquidator, who is personally present. By this Appeal, the Appellant - Society is challenging the order dated 17th January, 2003 passed by the Learned Single Judge. The aforesaid order clearly indicates that the Appellant was willing to take conveyance from the Official Liquidator of an area of 3088 sq.meter. In view of the same, the Learned Single Judge had passed the said order dated 17th January, 2003 directing the Official Liquidator

to execute the conveyance in favour of the said Co-operative Society of an area of 3088 sq.meter upon an undertaking being filed on behalf of the Co-operative Society.

2. The learned Counsel for the Appellant-Society states that the Co-operative Society is not willing to accept only 3088 sq.meter and they are desirous to obtain the conveyance for an are of 4112.88 sq.meter. The learned Counsel for the Appellant states that still the Appellant has not filed any undertaking in this Court, pursuant to the aforesaid order dated 17th January, 2003.

3. Having regard to the facts and circumstances of the case, we are not inclined to interfere with the order passed by the Learned Single Judge, since it is based on the assurance made by the Appellant, as is recorded in the said order. Hence, the Appeal stands dismissed. However, Appellant is at liberty to move the Learned Single Judge, by way of Review Petition/Clarification.

(DR.S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)